



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

ADOPTION CAUSE NO. 48 OF 2012(OS)

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF CHILD W.

IN THE MATTER OF AN APPLICATION FOR ADOPTION BY

JGKK.....1ST APPLICANT

TCK.....2ND APPLICANT

JUDGMENT

1. The applicant JGKK and TCK are a Kenyan couple aged 53 and 43, respectively. The 1st applicant is a procurement officer at Kenyatta University while the 2nd applicant is a farmer. They contracted their Kipsigis customary marriage in the year 1991. They have no child. However, the 1st applicant has 5 children from his second marriage with one NCK. On 6th March 2012 the applicants filed this originating summons dated 20th January 2012 seeking to adopt the child W.

2. Child W. was presumably born on 11th October 2009. He was found abandoned near the casualty area at Kenyatta Hospital on 29th April 2010. The child was found next to a paper bag containing the mother's antenatal card, baby treatment and immunization record. The card indicated the mother's name to be AN and the child's name to be GA. The matter was reported to Kenyatta Hospital Police Post vide O/B Number [xxxx]. The child was placed at Thomas Barnardo Children's Home. On 18th January 2011 the child was committed to the Home pursuant to an order made by the Nairobi Children's Court in Protection and Care number 222/2010. Police efforts to trace the mother and relatives of the child were not successful. The child was declared free for adoption by Kenya Children's Home Adoption Society on 8th February 2011 and placed with the applicants on 17th February 2011 for bonding.

3. On 19th September 2012 the court appointed Livingstone Kipngetich Rono as the guardian *ad litem* to the child and ordered him and the Director of Children Services within 45 days to prepare and file the requisite reports after carrying out a social inquiry on the applicants to determine their suitability to adopt the child. The two reports were filed each recommending the applicants be allowed to adopt the child. The reports found that the applicants were socially, emotionally and financially stable and suitable to adopt the child. It was also found that the child and the applicants had bonded well.

4. The court finds that it is in the best interest of the child to be adopted by the applicants. The applicants have demonstrated their ability to provide a conducive home and family environment in which the child will grow and develop. They will assume all parental rights and obligations of the biological parents of the child once adopted, and shall treat him as if he was born to them. They have been made aware that once the adoption order is made, it shall be final and binding during the lifetime of the child. The child shall have the right to inherit their property. The applicants shall not be able to give up the child owing to any subsequent unforeseen behaviour or other changes in the child. This court dispenses with the consent of the child's biological parents or relatives as they have never been traced.

5. Having been satisfied that all the legal requirements for a local adoption under the **Children Act** have been met, the following orders shall issue:-

- a) the applicants JGKK and TCK are hereby allowed to adopt child W;
- b) the child shall henceforth be known as TKT;

c) the child's date of birth shall be 11th October 2009, and shall be presumed to have been born at Kenyatta National Hospital in Kenya and shall therefore be presumed Kenyan by birth;

a) WKK is hereby appointed to be the child's legal guardian in the event of death or incapacity of the applicants before he is of full age and fully self-reliant;

b) the Registrar-General is directed to enter this adoption in the Adopted Children Register; and

c) the guardian *ad litem* is hereby discharged.

DATED and DELIVERED at NAIROBI this 6TH FEBRUARY 2020.

A.O. MUCHELULE

JUDGE